THE HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
THE HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION NO.17312 OF 2007

Date: 11.9.2007

Between:

Smt. S. Naga Lakshmi. … Petitioner

And

The Superintendent of Police,
Nizamabad and others. …. Respondents.

ORAL ORDER: **(per A. Gopal Reddy, J)**

This Writ Petition is filed for a writ of habeas corpus for production of the

alleged detenus 1. Smt. Peramma, 2) Smt. Jayalakshmi, 3) Smt. Nagamma w/o Tirupathi Reddy and 4) Tirupathi Reddy.

The complaint of the petitioner is that in connection with the murder of one Mala Konda Reddy, resident of Kothapally Village, Kotagiri Mandal, Nizamabad District, a crime was registered in which the father of the petitioner viz., Nagireddy was shown as Accused No.2 and since the police could not apprehend A.2, respondents 2 to 4 have illegally detained the grand mother of the petitioner, her mother, sister and brother-in-law on 10.8.2007, beat them indiscriminately and their whereabouts are not known nor they were produced before the Court of law and as such a writ in the nature of habeas corpus be issued for their production.

In response to the notices issued, the Sub-Inspector of Police, Kotagiri Police Station -4th respondent herein filed a counter stating that on the complaint of one Smt. P. Subbamma dated 9.8.2007 alleging that she along with her husband Mala Konda Reddy left their house on 9.8.2007 at about 7.30 a.m. on a motor cycle to the filed situated at Eklaspur Village to fetch grass for their cattle, that when they reached the fields of Eklaspur, two persons came out of the bushes and attacked her husband by sprinkling chilli powder on him due to which her husband lost the balance on the motor cycle and fell down, then six persons armed with weapons and sticks attacked him on the head due to which he sustained injuries and died on the spot, a case in Cr.No.73 of 2007 was registered for the offence punishable under Section 302 read with Section 34 IPC and investigation has been taken up. It is further stated that during the course of investigation, the Investigating Officer visited the house of the accused persons and found that they were absconding since the commission of the offence. During course of further investigation, the Investigating Officer once again visited the house of the accused to examine the family members on 10.8.2007, but none of the family members cooperated with the investigating officer and refused to answer any of the questions put to them. The writ petition was filed only to pre-empt the police from making further investigation in the matter. Along with the counter-affidavit, the 4th respondent also filed a certificate issued by the Village Revenue Officer, Kothapally, certified by the Tahsildar, Kotagri dated 16.8.2007 wherein it was certified that all the alleged detenus were in their respective houses in the village and are attending to their daily works.

The learned counsel for the petitioner also submitted that the alleged detenus are not now in the custody of the police and are moving freely in the village. From the

averments made in the counter-affidavit filed by the 4th respondent, it is clear that the writ petition appears to have been filed to thwart the arrest of the accused persons or from taking any coercive steps to know the whereabouts of the petitioner's father who is arrayed as Accused No.2. In view of the same and in view of the fact that the alleged detenus are not in the custody of the police and are freely moving in the village as evidenced by the certificate issued by the Village Revenue Officer, no further orders need to be passed in this Writ Petition which is accordingly dismissed.

A. GOPAL REDDY, J

11th September, 2007 **P. SWAROOP REDDY, J**

vtv